

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JOHN FERRARI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8222

Decision No. CU 1667

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOHN FERRARI, and is based upon the asserted loss of an unspecified amount sustained in connection with the ownership of a stock interest in Central Violeta Sugar Company, S.A. Claimant has been a national of the United States since his naturalization on September 20, 1943,

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record contains stock certificate No. CO 4773 issued to the claimant on May 7, 1958 for 14 shares of capital stock in Central Violeta Sugar Company, S.A. On the basis of all the evidence of record, including the foregoing certificate, the Commission finds that the claimant owned, continuously from the date of loss to the presentation of this claim, 14 shares of the capital stock issued by Central Violeta Sugar Company, S.A.

Central Violeta Sugar Company, S.A., was incorporated in Cuba and thus would not qualify as a national of the United States under Section 502(1)(B) of the Act which defines the term "national of the United States" as including "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

On October 13, 1960, the Government of Cuba published Law 890, in its Official Gazette, which listed as nationalized Central Violeta Sugar Company, S.A. Accordingly, the Commission finds that Central Violeta Sugar Company, S.A. was nationalized by the Government of Cuba on October 13, 1960.

The Commission concludes that as a result of the nationalization by the Government of Cuba of the Central Violeta Sugar Company, S.A., claimant suffered a loss within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property and that it is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider; i.e., fair market value, book value, going concern value, or cost of replacement.

In determining the value of the interest owned by claimant in Central Violeta Sugar Company, S.A., the Commission has considered claimant's assertions, a 1959 consolidated balance sheet for the company, as published in Moody's Industrial Manual for 1961 (p. 2029), as well as other data pertaining to the sales price of the stock.

In the absence of other evidence, the Commission concludes that the book value is the most appropriate basis of valuation.

The Commission therefore finds that a net book value of \$8,612,828 was available for distribution, at the time of loss, among the 283,020 shares of capital stock issued by Central Violeta Sugar Company, S.A., and concludes that the dollar loss sustained in connection with the ownership of a capital stock interest in Central Violeta Sugar Company, S.A. was \$30.4318 per share of the capital stock issued and held at the time of loss. (See Claim of Huntley E. Cox, Claim No. CU-2944.)

Accordingly, in the instant claim, the Commission finds that claimant, JOHN FERRARI, as holder of 14 shares of capital stock, suffered a loss in the amount of \$426.05 within the meaning of Title V of the Act, as a result of the nationalization of Central Violeta Sugar Company, S.A. by the Government of Cuba on October 13, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

The Commission therefore concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JOHN FERRARI sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Twenty-Six Dollars and Five Cents (\$426.05) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

CERTIFICATION
Theodore Jaffe, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 17 1968

Francis H. ...

NOTICE TO TREASURY DEPARTMENT: This claimant ^{Clerk of the Commission} may be the subject
of another certification of loss in CU-7368.

NOTICE TO TREASURY DEPARTMENT: The above listed securities may have
been returned to claimant and no payment should be made until they
are resubmitted.

The statute does not provide for the payment of claims against
the Government of Cuba. Provision is only made for the determination
by the Commission of the validity and amounts of such claims.
Section 501 of the statute specifically precludes any authorization
for appropriations for payment of these claims. The Commission is
required to certify its findings to the Secretary of State for
possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections
are filed within 15 days after service or receipt of notice of this Pro-
posed Decision, the decision will be entered as the Final Decision of
the Commission upon the expiration of 30 days after such service or re-
ceipt of notice, unless the Commission otherwise orders. (FCSC Reg.,
45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)